

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 02-7872**

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RANDY RICHARD LINAMEN,

Petitioner - Appellant,

versus

RON ANGELONE, Director, Virginia Department of  
Corrections,

Respondent - Appellee.

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Appeal from the United States District Court for the Eastern  
District of Virginia, at Alexandria. Gerald Bruce Lee, District  
Judge. (CA-02-760-AM)

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Submitted: March 6, 2003

Decided: March 14, 2003

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Before WILKINSON, MICHAEL, and KING, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Randy Richard Linamen, Appellant Pro Se.

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Unpublished opinions are not binding precedent in this circuit.  
See Local Rule 36(c).

PER CURIAM:

Randy Richard Linamen, seeks to appeal the district court's order denying relief on his petition filed under 28 U.S.C. § 2254 (2000). An appeal may not be taken from the final order in a habeas corpus proceeding unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). When, as here, a district court dismisses a § 2254 petition solely on procedural grounds, a certificate of appealability will not issue unless the petitioner can demonstrate both "(1) 'that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and (2) 'that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.'" Rose v. Lee, 252 F.3d 676, 684 (4th Cir.) (quoting Slack v. McDaniel, 529 U.S. 473, 484 (2000)), cert. denied, 534 U.S. 941 (2001). We have independently reviewed the record and conclude that Linamen has not made the requisite showing. Miller-El v. Cockrell, \_\_\_ U.S. \_\_\_, 2003 WL 431659, at \*10 (U.S. Feb. 25, 2003) (No. 01-7662). Moreover, Linamen has waived his right to challenge the district court's finding regarding timeliness because he did not challenge that finding in his informal briefs. 4th Cir. R. 34(b).

Accordingly, we deny a certificate of appealability and dismiss the appeal. We also deny Linamen's motions for appointment of counsel and preliminary injunction. We dispense with oral

argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED